

i. The provisions of these rules and subrules do not apply to a gratuitous gift, such as flowers or a door knocker, to a buyer or tenant subsequent to closing and not promised or offered as an inducement to buy or lease as long as any client relationship has terminated.

j. The provisions of these rules and subrules do not apply to a free gift, such as prizes, money, or other valuable consideration, to a potential party to a transaction or lease prior to signing a contract to purchase or lease and not promised or offered as an inducement to sell, buy, or lease as long as no client relationship has been established with the buyer or lessee.

1.42(7) Solicitation of brokerage agreements. A licensee shall not advise, counsel, or solicit a brokerage agreement from a seller or buyer, or landlord or tenant, if the licensee knows, or acting in a reasonable manner should have known, that the seller or buyer or landlord or tenant has contracted with another broker for the same brokerage services on an exclusive basis.

a. This rule does not preclude a broker from entering into a brokerage agreement with a seller or buyer, or landlord or tenant, when the initial contact is initiated by the seller or buyer, or landlord or tenant, and the licensee has not directly or indirectly solicited the discussion, provided the brokerage agreement does not become effective until the expiration or release of the current brokerage agreement.

b. A brokerage agreement may not be assigned, sold, or otherwise transferred to another broker without the express written consent of all parties to the original agreement.

1.42(8) A licensee shall not negotiate directly or indirectly with a seller or buyer, or landlord or tenant, if the licensee knows, or acting in a reasonable manner should have known, that the seller or buyer, or landlord or tenant, has a written unexpired brokerage agreement for services on an exclusive basis.

1.42(9) A licensee shall not refuse to permit a customer to have a customer's agent present at any step in a real estate transaction including, but not limited to, viewing a property, seeking information about a property, or negotiating directly or indirectly with a licensee about a property listed by such licensee; and no licensee shall refuse to show a property listed by that licensee or otherwise deal with a customer who is represented by another licensee or who requests that the customer's agent be present at any step in the real estate transaction; provided, however, a listing licensee shall not be required to permit a customer's agent to be present when presenting offers or discussing confidential matters with a client. Compliance with this subrule does not require or obligate a listing licensee to share any commission or to otherwise compensate a customer's agent.

1.42(10) Any commission or fee in any brokerage engagement is fully negotiable among the parties to that brokerage agreement. Once the parties to a brokerage agreement have agreed to a commission or fee, no licensee other than a party to that brokerage agreement shall attempt to alter, modify, or change or induce another person to alter, modify or change a commission or fee that has previously been agreed upon without the prior written consent of the parties to that brokerage agreement.

1.42(11) A real estate licensee shall not induce another to seek to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent.

193E—1.43(543B) Single agent representing a seller or landlord.

1.43(1) Duty to seller or landlord. A licensee representing a seller or landlord as an exclusive seller's agent or an exclusive landlord's agent shall have the following duties and obligations:

a. To perform the terms of the written agreement made with the seller or landlord;
b. To exercise reasonable skill and care for the seller or landlord;
c. To promote the interests of the seller or landlord with the utmost care, integrity, honesty, and loyalty, including but not limited to the following:

(1) Seeking a price and terms which are acceptable to the seller or landlord; except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;

(2) Presenting all written offers to and from the seller or landlord in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease, unless it is provided for by the brokerage agreement;

(3) Disclosing to the seller or landlord all material adverse facts concerning the property and the transaction that are actually known by the licensee pursuant to Iowa Code Supplement section 543B.56;

(4) Advising the client to obtain expert advice as to material matters about which the licensee knows, but the specifics of which are beyond the expertise of the licensee;

(5) Preserving the seller's or landlord's confidential information as defined in 193E—1.1(543B), unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:

1. Information concerning the seller or the landlord that, if disclosed to the other party, could place the seller or landlord at a disadvantage when bargaining;

2. That the seller or landlord is willing to accept less than the asking price or lease price for the property;

3. What the motivating factors are for the client's selling or leasing the property;

4. That the seller or landlord will agree to sale, lease, or financing terms other than those offered;

5. The seller's or landlord's real estate needs;

6. The seller's or landlord's financial information;

(6) Accounting in a timely manner for all money and property received;

(7) Providing brokerage services to all parties to the transaction honestly and in good faith;

(8) Complying with all requirements of Iowa Code chapter 543B and all commission rules and regulations;

(9) Complying with any applicable federal, state, or local laws, rules, ordinances, including fair housing and civil rights statutes and regulations.

1.43(2) *Duty to a buyer or tenant.* A licensee acting as an exclusive seller's or exclusive landlord's agent shall disclose to any customer all material adverse facts actually known by the licensee pursuant to Iowa Code Supplement section 543B.56.

a. The licensee owes no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant and owes no duty to independently verify the accuracy or completeness of any statement made by the seller or landlord or any independent inspector, unless the licensee knows or has reason to believe the information is not accurate.

b. Nothing in this rule precludes the obligation of a buyer or tenant from the responsibility of protecting the buyer's or the tenant's own interest by, but not limited to, inspecting the physical condition of the property and verifying important information.

c. A seller or landlord may agree in writing with an exclusive seller's or exclusive landlord's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the seller's or landlord's behalf shall be an agent with the same obligations and responsibilities to the seller or landlord as the primary broker of the seller or landlord.

d. A real estate brokerage engaged by a seller or landlord in a real estate transaction may provide assistance to an unrepresented buyer or tenant by performing such acts as preparing offers and conveying those offers to the seller or landlord and providing information and assistance concerning professional services not related to real estate brokerage services.

1.43(3) *Alternative properties.* The licensee may show alternative properties not owned by the seller or landlord to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the seller or landlord.

193E—1.44(543B) Single agent representing a buyer or tenant.

1.44(1) *Duty to buyer or tenant.* A licensee representing a buyer or tenant as an exclusive buyer's or an exclusive tenant's agent shall have the following duties and obligations:

- a.* To perform the terms of any written agreement made with the client;
- b.* To exercise reasonable skill and care for the client;
- c.* To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including but not limited to the following:

(1) Seeking a property at a price and terms which are acceptable to the buyer or tenant, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property, or to a lease or letter of intent to lease, unless it is provided for by the brokerage agreement;

(2) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or letter of intent to lease;

(3) Disclosing to the buyer or tenant material adverse facts concerning the property and the transaction that are actually known by the licensee, pursuant to Iowa Code Supplement section 543B.56;

(4) Advising the buyer or tenant to obtain expert advice on material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(5) Preserving the buyer's or tenant's confidential information as defined in 193E—1.1(543B), unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing, including but not limited to the following:

1. Information concerning the buyer or the tenant that if disclosed to the other party, could place the client at a disadvantage when bargaining;

2. That the buyer or tenant is willing to pay more than the asking price or lease price for the property;

3. What the motivating factors are for the party buying or leasing the property;

4. That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;

5. The buyer's or tenant's real estate needs;

6. The buyer's or tenant's financial qualifications;

(6) Accounting in a timely manner for all money and property received;

(7) Providing brokerage services to all parties to the transaction honestly and in good faith;

(8) Complying with all requirements of Iowa Code chapter 543B and all commission rules and regulations;

(9) Complying with any applicable federal, state, or local laws, rules, ordinances, including fair housing and civil rights statutes and regulations.

1.44(2) *Duty to a seller or landlord.* A licensee acting as an exclusive buyer's or an exclusive tenant's agent shall disclose to any customer all material adverse facts actually known by the licensee, pursuant to Iowa Code Supplement section 543B.56.

a. The licensee owes no duty to conduct an independent investigation of the buyer's or tenant's financial condition for the benefit of the seller or landlord and owes no duty to verify the accuracy or completeness of any statement made by the buyer or tenant or any independent source, unless the licensee knows or has reason to believe the information is not accurate.

b. Nothing in this rule shall limit the obligation of a seller or landlord from the responsibility of protecting their own interest by, but not limited to, verifying information concerning or provided by the buyer or tenant.

c. A buyer or tenant may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the buyer's or tenant's behalf shall be a single agent with the same obligations and responsibilities to the buyer or tenant as the primary broker of the buyer or tenant.

d. A real estate brokerage agency engaged by a buyer or tenant in a real estate transaction may provide assistance to an unrepresented seller or landlord by performing such acts as preparing offers and conveying those offers to the buyer or tenant and providing information and assistance concerning professional services not related to real estate brokerage services.

1.44(3) *Competing buyers or tenants.* The licensee may show properties in which the buyer or tenant is interested to other prospective buyers or tenants, may assist other competing buyers or tenants, and may enter into brokerage service agreements with other competing buyers or tenants without breaching any duty or obligation to the buyer or tenant.

193E—1.45(543B) Disclosed dual agent.

1.45(1) A brokerage which has a company policy that permits disclosed dual agency for in-house transactions shall provide a disclosed dual agency consent agreement to the client, or prospective client prior to engaging in any activities of a dual agent. Such consent agreement shall comply with Iowa law and commission rules including, but not limited to, the requirement to inform the prospective clients that they are not required to consent to dual agency representation as provided by subrule 1.45(2).

a. A licensee may act as a dual agent only with the informed consent of all parties to the transaction. The informed consent shall be evidenced by a written agreement pursuant to Iowa law and commission rules.

b. A dual agent shall be an agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required for a single agent representing a seller or landlord and for a single agent representing a buyer or tenant, unless otherwise provided for in this rule.

c. A dual agent shall disclose to the client all material adverse facts concerning the property that are actually known by the licensee, pursuant to Iowa Code Supplement section 543B.56.

d. A dual agent shall not disclose to one client confidential information about the other client and shall preserve a seller's or a landlord's, or a buyer's or a tenant's, confidential information as defined in 193E—1.1(543B), unless disclosure is required by law, or failure to disclose such information would constitute fraud or dishonest dealing, or disclosure is authorized by express instruction. A dual agent does not terminate the dual agency relationship by making the disclosures required or permitted by the dual agency consent agreement. Confidential information shall include, but not be limited to, the following:

(1) Information concerning a seller or landlord that if disclosed to the buyer or tenant could place that seller or landlord at a disadvantage when bargaining;

(2) Information concerning a buyer or tenant that if disclosed to the seller or landlord could place that buyer or tenant at a disadvantage when bargaining;

(3) That the seller or landlord is willing to accept less than the asking price or lease price for the property;

(4) That the buyer or tenant is willing to pay more than the asking price or lease price for the property;

(5) What the motivating factors are for client's selling or leasing the property;

(6) What the motivating factors are for the client's buying or leasing the property;

(7) That the seller or landlord will agree to sale, lease, or financing terms other than those offered;

(8) That the buyer or tenant will agree to sale, lease, or financing terms other than those offered;

- (9) The seller's or landlord's real estate needs;
- (10) The buyer's or tenant's real estate needs;
- (11) The seller's or landlord's financial information;
- (12) The buyer's or tenant's financial qualifications.

e. In any transaction, a licensee may withdraw from representing a client who has not consented to a disclosed dual agency at any time prior to the existence of the dual agency, which is prior to discussing any seller's or landlord's property with a potential buyer or tenant and prior to discussing any potential buyer or tenant with a seller or landlord, when both the seller or landlord and the buyer or tenant are represented by and clients of the licensee. All withdrawals shall be made in writing and acknowledged by the separate signatures of the clients. Such withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction, nor limit the licensee from representing the client in other transactions not involving a dual agency.

1.45(2) A dual agency consent agreement shall:

- a.* Fairly and accurately describe the type of representation the licensee will provide each client;
- b.* Contain a statement of the licensee's duties under Iowa Code Supplement section 543B.56, subsection 1;
- c.* Contain a statement of the licensee's duties under Iowa Code Supplement section 543B.56, subsection 2;
- d.* Inform the clients that representing more than one party to a transaction may present a conflict of interest;
- e.* Inform the clients that they are not required to consent to dual agency;
- f.* Provide additional information the licensee determines is necessary to clarify the licensee's relationship with each client, including any changes from prior types of representation;
- g.* Describe the confidential information a dual agent will not disclose to one client about the other client; and
- h.* Include a statement that the clients understand the licensee's duties and consent to the licensee's providing brokerage services to more than one client.

1.45(3) No particular disclosure language is required. The commission recommends use of the following sample language to satisfy the required disclosure regarding conflict of interest: Representing more than one party to a transaction can create a conflict of interest since both clients may rely upon the broker's advice, and the clients' respective interests may be adverse to each other. Broker will endeavor to be impartial between seller and buyer and will not represent the interest of either the seller or buyer to the exclusion or detriment of the other.

1.45(4) Potential dual agency agreement. A brokerage which has a company policy that permits disclosed dual agency for in-house transactions that elects to use a potential dual agency agreement shall provide the agreement to the client or prospective client prior to engaging in any activities of a dual agent. Such consent agreement shall comply with Iowa law and commission rules.

- a.* The potential dual agency agreement should be provided to the seller or landlord prior to entering into a listing agreement, or a contract for seller or landlord brokerage services.
- b.* The potential dual agency agreement should be provided to the buyer or tenant prior to entering into a buyer or tenant agency agreement, or a contract for buyer or tenant brokerage services.
- c.* If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure shall be presented to the buyer or tenant prior to signing an offer to purchase or a rental or lease agreement. The buyer or tenant may accept or reject dual agency at this point in the transaction.

d. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, a dual agency consent disclosure shall be presented to the seller or landlord prior to signing or accepting an offer to purchase or a rental or lease agreement. The seller or landlord may accept or reject dual agency at this point in the transaction.

e. If the parties to a proposed transaction or contract have agreed in writing to potential dual agency, the required subsequent dual agency consent disclosure shall be property specific and comply with Iowa law and commission rules.

193E—1.46(543B) Appointed agents within a brokerage. Iowa Code Supplement section 543B.59 authorizes a designated broker to elect to appoint in writing one or more different licensees affiliated with the broker to act as agent to represent exclusively different clients in the same transaction, to the exclusion of all other affiliated licensees within the real estate brokerage. The licensees may not disclose, except to the licensee's designated broker, information made confidential by request or instructions of the client the licensee is representing or otherwise confidential by statute or rule, except information allowed by this chapter or required to be disclosed by law.

1.46(1) The designated broker may want to make some or all of those appointments in the written company policy and may want to include the procedure by which the appointment of the agency is made.

1.46(2) The designated broker could decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, that only the affiliated licensee who, on behalf of the designated broker, entered into the listing agreement with the seller, or leasing agreement with the landlord, will represent the seller, or landlord, as that client's agent. In that scenario all other affiliated licensees with the designated broker will represent buyers, or tenants, as their agents in any transactions dealing with the subject property; and only the affiliated licensee who, on behalf of the designated broker, entered into a brokerage agreement with the buyer, or tenant, will represent the buyer, or tenant, as that client's agent. In that scenario all other affiliated licensees with the designated broker will represent sellers, or landlords, as their agents in any transactions dealing with the subject property.

193E—1.47 (543B) Appointed agent procedures and disclosure.

1.47(1) Prior to entering into a brokerage agreement, a real estate brokerage shall notify a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees within the real estate brokerage that will be acting as appointed agents of that client to the exclusion of all other affiliated licensees within the real estate brokerage. The appointed agent disclosure shall include, at a minimum, the following provisions:

- a.* The name of the appointed agent(s);
- b.* A statement that the appointed agent will be representing the client as the client's agent and will owe the client duties as set forth in Iowa Code Supplement section 543B.56, subsections 1 and 2;
- c.* A statement that the brokerage may be representing both the seller and the buyer in connection with the sale or purchase of real estate;
- d.* A statement that other affiliated licensees may be appointed during the term of the brokerage agreement should the appointed agent not be able to fulfill the terms of the brokerage agreement or as by agreement between the designated broker and the client. An appointment of another affiliated licensee or an additional affiliated licensee does not relieve the first appointed agent of any of the duties owed to the client. At any time of the appointment of the new or additional agents, the designated broker must comply with the provisions of this rule; and
- e.* A provision for the client to consent or not consent in writing to the appointment.

1.47(2) Implementation of the appointed agent within a brokerage relationship. Any broker may elect to offer the appointed agent relationship. The broker shall not implement the use of the relationship until such time as the broker has fully complied with all Iowa laws and commission rules.

a. The broker shall not, without the written consent of the clients, appoint an affiliated licensee to act as an appointed agent in any transaction involving a written exclusive single agent or dual agent brokerage agreement that was in effect prior to the broker implementing the appointed agent relationship.

b. If the client of an appointed agent wants to consider a property on which the broker has a prior existing exclusive single agent or dual agent brokerage agreement, the broker shall not allow the use of the appointed agent without first obtaining the written consent of that particular seller or landlord to the appointed agency relationship.

c. If the written consent of the client to allow the appointed agency relationship is not given or cannot be obtained, the broker shall refer the client of the appointed agent to another broker for representation at least for the purpose of considering this property.

1.47(3) A designated broker shall not be considered to be a dual agent solely because the designated broker makes an appointment under this rule, except that any licensee who, with prior written consent of all parties, personally represents both the seller and buyer or both the landlord and tenant in a transaction shall be a dual agent and shall be required to comply with the provisions governing dual agents.

1.47(4) Appointed agent and designated broker responsibilities.

a. A designated broker appointing an affiliated licensee(s) to act as an agent of a client shall take ordinary and necessary care to protect confidential information disclosed by the client to the appointed agent.

b. An appointed agent may disclose to the brokerage's designated broker, or a designee specified by the designated broker, confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction, or to comply with the broker's supervisory duties. Confidential information shall be treated as such by the designated broker or other specified representative of the broker and shall not be disclosed unless otherwise required by Iowa law and related commission rules or requested or permitted in writing by the client who originally disclosed the confidential information.

c. If a designated broker elects to use the appointed agent within a firm authority set forth in Iowa Code Supplement section 543B.59, and when the affiliated licensee appointed also acts in a supervisory capacity under the designated broker, such as branch managers, sales managers and the like, these appointed licensees may be treated in the same manner as the designated broker for purposes of determining dual agency under Iowa Code Supplement section 543B.59, subsection 2, only if the designated broker authorizes and provides for such supervisory positions in the written company policy.

(1) A designated broker may elect to authorize and appoint an affiliate licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a seller or landlord, or buyer or tenant in a transaction.

(2) A designated broker may elect to authorize and appoint an affiliate licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a buyer or tenant in a transaction.

(3) A designated broker may elect to authorize and appoint an affiliate licensee in a supervisory capacity to supervise and assist licensees appointed to exclusively represent a seller or landlord in a transaction.

(4) A licensee in a supervisory capacity that is authorized and appointed to supervise and assist licensees appointed to represent a seller or landlord, or buyer or tenant exclusively, shall have the same duties, obligations, and responsibilities as the designated broker.

(5) The use of an authorized appointed agent shall not relieve the designated broker of duties, obligations, and responsibilities required by law or rules.

1.47(5) Licensee's duty to designated broker/designee. A licensee shall keep the brokerage designated broker/designee fully informed of all activities conducted on behalf of the brokerage and shall notify the designated broker/designee of any other activities that might impact on the responsibility of the designated broker/designee.

193E—1.48(543B) Written company policy required. The designated broker, firm, partnership, limited liability company, association, or corporation acting as a broker shall have a written company policy that identifies and describes the types of real estate brokerage relationships in which the broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as a part of any real estate brokerage activities. In addition, those brokerages that offer representation to both buyers and sellers and tenants and landlords must also address the appointed agent's policy and brokerage procedures intended to prevent any mishandling of information through both formal and informal sharing of information within the brokerage, the arrangement of brokerage office space and the personal relationships of affiliated licensees who are representing clients with adverse interests.

1. A broker shall not be required to offer or engage in more than one type of brokerage relationship as enumerated in rules 1.43(543B) to 1.46(543B).

2. The licensee offering brokerage services to a person, or who is providing brokerage services to a person for a property, shall disclose in writing to that person the type or types of brokerage relationships the broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing.

3. Disclosure pursuant to this rule shall be made by the licensee at the earliest practicable opportunity at the time specific assistance is provided to a seller, buyer, landlord, or tenant who is not represented by a licensee.

193E—1.49(543B) Disclosure of agency relationship required. Rescinded IAB 9/10/97, effective 10/15/97.

193E—1.50(543B) Financial interest written disclosure required. A licensee must disclose to a client any financial interests the licensee or brokerage has in any business entity to which the licensee or brokerage refers a client for any service or product related to the transaction. A licensee who has any affiliated business arrangement or relationship with any provider of settlement services, as defined below, and directly or indirectly refers business to that provider or affirmatively influences the selection of that provider, shall disclose the arrangement and any financial interest to the person whose business is being referred or influenced. The required disclosure shall be acknowledged by the separate signatures of the person or persons whose business is being referred or influenced. The disclosure shall be given and signed before or at substantially the same time that the business is referred or the provider is selected. If the disclosure is made on a separate form, the licensee shall retain a copy of the signed disclosure in the transaction file for a period of five years after the execution.

1.50(1) An affiliated business arrangement shall mean an arrangement in which a real estate agent licensee, or an associate of a real estate licensee, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in the business entity providing the service or product.

a. An associate means one who has one or more of the following relationships with a real estate broker:

- (1) A spouse, parent, or child of a real estate licensee;
- (2) A corporation or business entity that controls, is controlled by or is under common control with a real estate licensee;
- (3) An employee, officer, director, partner, franchiser or franchisee of a real estate licensee; or
- (4) Anyone who has an agreement, arrangement or understanding with a real estate licensee or brokerage, the purpose or substantial effect of which is to enable the real estate licensee to refer for any service, settlement service, or business or product related to the transaction and to benefit financially from the referral of that business.

b. Settlement services include services in connection with a real estate transaction including, but not limited to, the following: mortgage or other financing; title searches; title examinations; the provisions of title certificates, title insurance, hazard insurance; services rendered by an attorney; the preparation of documents; property surveys; the rendering of credit reports or appraisals; pest, fungus, mechanical or other inspections; services rendered by a real estate agent or broker; and the handling of the processing and closing of settlement.

c. An affiliated business arrangement shall not include an arrangement in which a real estate licensee, or an associate of a real estate licensee, gives or pays an undisclosed commission in a transaction to any other licensee for a referral to provide real estate brokerage services, including franchise affiliates, if there is no direct or beneficial ownership interest of more than 1 percent in the business entity providing the service. Referral fees or commissions paid by a licensee to another licensee under these conditions are exempted from the disclosure requirement.

1.50(2) No particular language is required for the disclosure. To assist real estate licensees and the public, the commission recommends the following sample language:

DISCLOSURE OF REFERRAL OF BUSINESS

I understand that (Name of Real Estate Licensee) has an affiliate relationship with or owns an interest in (Name of Company to Which Business Is Being Referred) and is also recommending that I employ this company for (Type of Service).

I understand that (Name of Real Estate Licensee) may earn financial benefits from my use of this company.

I understand that I am not obligated to use this company, and may select a different company if I wish to do so.

This form has been fully explained to me and I have received a copy.

(Date)

(Signature of Person Whose Business
is Being Referred)

1.50(3) The affiliate disclosure required under this rule shall be satisfied if the licensee delivers the disclosure form required by 24 CFR Chapter XX, Section 3500.15(b)(1) of the Real Estate Settlement Procedures Act as of April 1995. Licensees are cautioned that federal regulations may require additional or different disclosures than are established by this rule, and may prohibit certain referral fees.

1.50(4) The term “*franchise*” shall have the same meaning as set forth in 24 CFR Chapter XX, Section 3500.15(c) as of April 1995.

1.50(5) The term “*affiliate relationship*” means the relationship among business entities where one entity has effective control over the other by virtue of a partnership or other agreement or is under common control with the other by a third entity or where an entity is a corporation related to another corporation as parent to subsidiary by an identity of stock ownership.

1.50(6) The term “*beneficial ownership*” means the effective ownership of an interest in a provider of settlement services or the right to use and control the ownership interest involved even though legal ownership or title may be held in another person’s name.

1.50(7) The term “*direct ownership*” means the holding of legal title to an interest in a provider of settlement service except where title is being held for the beneficial owner.

1.50(8) The term “*control*” as used in the definition of “*affiliate relationship*” means that a person:

- a.* Is a general partner, officer, director, or employer of another person;
- b.* Directly or indirectly or acting in concert with others, or through one or more subsidiaries, owns, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interests of another person;
- c.* Affirmatively influences in any manner the election of a majority of the directors of another person; or
- d.* Has contributed more than 20 percent of the capital of the other person.

193E—1.51(543B) Agency-designated broker responsibilities. The following conditions and circumstances, together with the education and experience of licensed and unlicensed employees and independent contractors, shall be considered when determining whether or not the designated broker has met the supervisory responsibilities as set forth by Iowa Code Supplement section 543B.62, subsection 3, paragraph “b.”

1.51(1) When making a determination, the commission may consider, but is not limited to, the following:

- a.* Availability of the designated broker/designee to assist and advise regarding brokerage related activities;
- b.* General knowledge of brokerage-related staff activities;
- c.* Availability of quality training programs and materials to licensed and unlicensed employees and independent contractors;
- d.* Supervisory policies and practices in the review of competitive market analysis, listing contracts, sales contracts and other contracts or information prepared for clients and customers;
- e.* Frequency and content of staff meetings;
- f.* Written company policy manuals for licensed and unlicensed employees and independent contractors;
- g.* Ratio of supervisors to licensed employees and independent contractors; and
- h.* Assignment of an experienced licensee to work with new licensees.

1.51(2) The designated broker shall disseminate, in a timely manner, to licensed employees and independent contractors all regulatory information received by the brokerage pertaining to the practice of real estate brokerage.

193E—1.52(543B) Enforcement date. Rules 1.41(543B) to 1.51(543B) shall not be enforced until July 1, 1996. When the commission adopted these rules, which became effective January 24, 1996, it intended to delay enforcement until July 1, 1996, as stated in rule 1.41(543B). This rule is intended to clarify the enforcement date to avoid any possible confusion by licensees or the public more generally. The commission wants to provide licensees with the opportunity to obtain education and to become familiar with the rules prior to enforcement.

These rules are intended to implement Iowa Code chapters 558A and 543B and Iowa Code Supplement sections 543B.57 to 543B.63.

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